

**US Army Corps  
of Engineers®**

# PUBLIC NOTICE

## ERRATUM

### To Public Notice 200200632-BAH Lower Owens River Project

*LOS ANGELES DISTRICT*

**Public Notice/Application No.:** 200200632-BAH

**Comment Period:** 5 October 2005 through 5 November 2005

**Project Manager:** Bruce A. Henderson (805) 585-2145 [bruce.a.henderson@usace.army.mil](mailto:bruce.a.henderson@usace.army.mil)

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**Applicant**

Los Angeles Department of Water and Power  
111 North Hope Street  
Los Angeles, California 90012-2607

**Contact**

Tom Erb  
Director of Water Resources  
213-367-0873

**Location**

On the Owens River from approximately 12 miles due north of Independence to the delta on Owens Lake, Inyo County, California.

**Activity**

This erratum sheet describes another project activity for the Lower Owens River Project, for which the Corps issued a public notice on October 5, 2005. For more information see page 3 of that notice, which is appended to this erratum.

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Interested parties are invited to provide their views on the proposed work, including that described in this erratum, which will become a part of the record and will be considered in the decision. This permit will be issued or denied under Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344). Comments should be mailed to:

U.S. Army Corps of Engineers, Los Angeles District  
Regulatory Branch - Ventura Field Office  
ATTN: CESPL-CO-R-200200632-BAH  
2151 Alessandro Drive, Suite 110  
Ventura, California 93001

Alternatively, comments can be sent electronically to: [bruce.a.henderson@usace.army.mil](mailto:bruce.a.henderson@usace.army.mil)

## **Evaluation Factors**

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

**Project Information** – The Corps of Engineers regulates the discharge of dredged or fill material into waters of the United States pursuant to Section 404 of the Clean Water Act. Other activities that occur in waters of the U.S. that do not involve discharge of dredged or fill material may not be subject to regulation (i.e., excavation of sediments that results in only de minimus fallback of excavated material). The public notice for the Lower Owens River Project issued on October 4, 2005 did not describe one substantial project-related activity because it was believed to comprise non-regulated excavation of materials from the main channel of the original Owens River, likely using an excavator from the adjacent bank. It has come to our attention that it would be reasonable to have a contingency available if existing conditions preclude the opportunity to simply excavate from the side of the river channel, or if logistics make another option more advantageous. Therefore, the Corp's public notice is amended by this erratum.

**Background Information** – The Owens River channel is of extremely low gradient from the River Inlet to the delta. Because the river has not had regular flows for several decades, sediments carried by occasional higher flows have not been able to be consistently carried through the system to the delta on the former Owens Lake bed. Because the gradient is so low, flows into the original river channel would be impeded.

**Specific Activity** – that may need additional authorization from the Corps pursuant to Section 404 of the Clean Water Act: The applicant has identified the need to remove these accumulated sediments and resulting riparian vegetation in a 15-foot-wide swath from a two-mile-long reach of the river immediately downstream from the River Inlet at the northern end of the project area to enable the channel to adequately convey flows. To enable this aspect of the LORP plan, the applicant would determine whether an excavator operating from the side of the channel (not subject to regulation by the Corps) would be more advantageous, or if use of a bulldozer would be more appropriate. The

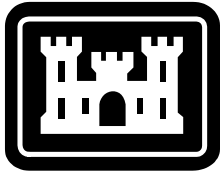
end result would be similar – the removal of accumulated sediments and vegetation. The manner by which this occurs, however, may require Corps authorization (i.e., use of the bulldozer effectively results in a discharge of material from its origin to another point whereby it would be removed by other means for off-channel disposal).

The comment period, October 5, 2005 to November 5, 2005, remains unchanged.

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For additional information, please call Bruce A. Henderson of my staff at (805) 585-2145. This public notice is issued by the Chief, Regulatory Branch.

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## **US Army Corps of Engineers®**

# **PUBLIC NOTICE**

## **APPLICATION FOR PERMIT**

*LOS ANGELES DISTRICT*

**Public Notice/Application No.:** 200200632-BAH

**Comment Period:** 5 October 2005 through 5 November 2005

**Project Manager:** Bruce A. Henderson (805) 585-2145 [bruce.a.henderson@usace.army.mil](mailto:bruce.a.henderson@usace.army.mil)

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### **Applicant**

Los Angeles Department of Water and Power  
111 North Hope Street  
Los Angeles, California 90012-2607

### **Contact**

Tom Erb  
Director of Water Resources  
213-367-0873

### **Location**

On the Owens River from approximately 12 miles due north of Independence to the delta on Owens Lake, Inyo County, California.

### **Activity**

To construct an impoundment and pump back station for the recapture of water released to the Owens River from the modified Los Angeles Aqueduct system, various water control structures to enable the distribution of a portion of the river's flows to managed habitat areas, and installation of a number of flow measuring stations (see attached drawings). For more information see page 3 of this notice.

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Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). Interested parties are invited to provide their views on the proposed work, which will become a part of the record and will be considered in the decision. This permit will be issued or denied under Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344). Comments should be mailed to:

U.S. Army Corps of Engineers, Los Angeles District  
Regulatory Branch - Ventura Field Office  
ATTN: CESPL-CO-R-200200632-BAH  
2151 Alessandro Drive, Suite 110  
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## **Evaluation Factors**

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

## **Preliminary Review of Selected Factors**

**EIS Determination** – A preliminary determination has been made that an EIS is not required for the proposed work. The Corps notes that until September 19, 2005, the U.S. Environmental Protection Agency (EPA) was preparing an EIS pursuant to NEPA parallel with the Los Angeles Department of Water and Power/County of Inyo's preparation of an environmental impact report (EIR) pursuant to the California Environmental Quality Act (CEQA) at which time funding was halted. This is not a substantive discrepancy between Federal agencies because the Corps' regulatory role under Section 404 of the Clean Water Act (i.e., the regulation of discharges of dredged or fill material into waters of the United States) is substantially less than the EPA's oversight role that was established by its provision of substantial funding for the project in total.

**Water Quality** – The applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the California Regional Water Quality Control Board. Section 401 requires that any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance. For any proposed activity on Tribal land that is subject to Section 404 jurisdiction, the applicant would be required to obtain water quality certification from the U.S. Environmental Protection Agency. The Lahontan Regional Water Quality Control Board issued a conditional Section 401 water quality certification for this project on July 14, 2005.

**Coastal Zone Management** – This project is located outside of the coastal zone and will not affect coastal zone resources.

**Cultural Resources** – The latest version of the National Register of Historic Places has been consulted and areas that would be directly affected by activities authorized by the Corps' issuance of a permit are not listed. However, additional cultural resources inventories were conducted to investigate the occurrence of prehistoric or historic sites' potential eligibility for listing on the National Register of Historic Places pursuant to Section 106 of the National Historic Preservation Act. The Corps will make a determination of eligibility for each identified site and will consult appropriately with the State Historic Preservation Office.

**Endangered Species** – Preliminary determinations indicate that the proposed activity would not affect federally listed endangered or threatened species, or their critical habitat. Therefore, formal consultation under Section 7 of the Endangered Species Act does not appear to be required at this time. However, the proposed project could restore certain conditions favorable to species known to formerly inhabit the Owens River in the vicinity of the project. If these conditions are established, the U.S. Fish and Wildlife Service and California Department of Fish and Game may determine it appropriate to attempt to reestablish populations of one or more sensitive species. Because this situation is speculative at this time, it is not appropriate to consult on these scenarios, and because it is anticipated the Corps will not have an action on which to act (i.e., issuance of a permit for discharge of fill material), we would not likely be involved with consultation on these issues pursuant to Section 7 of the federal Endangered Species Act.

**Public Hearing** – Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

### **Proposed Activity for Which a Permit is Required**

**Basic Project Purpose** – The basic project purpose comprises the fundamental, essential, or irreducible purpose of the proposed project, and is used by the Corps to determine whether the applicant's project is water dependent. The basic purpose of the proposed project is habitat restoration. To effect this purpose, a limited number of structures that may require discharge of fill into the Owens River or other areas subject to Corps jurisdiction are likely necessary. Because it is desirable that these structures be durable and low maintenance and still have access to river flows, it is anticipated they would necessarily be water dependent.

**Overall Project Purpose** – The overall project purpose serves as the basis for the Corps' 404(b)(1) alternatives analysis and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, and which allows a reasonable range of alternatives to be analyzed. The overall project purpose for the proposed project is to restore riparian and wetland habitats over approximately 62 miles of the lower Owens River. The proposed pump station is an agreed-upon integral coherent part of the proposed project that does not directly serve to restore or reestablish riparian habitats but serves to recapture water released to the river system from the Los Angeles Aqueduct by agreement with other parties involved with this project.

**Specific Activities** – requiring Department of the Army authorization pursuant to Section 404 of the Clean Water Act:

- At the River Intake at the northern end of the project area (construction area estimated to be approximately 5.5 acres): construction of a temporary cofferdam in the forebay excavated at the River Intake; extend the downstream end of the base of the existing spill gate structure 85 feet (including 16 feet for the gate structure proper ); install a new Langemann gate in the

- extended portion; regrade and line the tailbay and up to 300 feet of river channel with concrete; discharge concrete for repair/replacement of the bridge at the river intake;
- Replace the existing flow measuring station immediately upstream of Keeler bridge ; construct a temporary earthen cofferdam upstream of the Keeler measuring station for diversion of flows around the construction site; construct a new weir and one or more permanent flow measuring stations; and temporary placement of sandbags for temporary flow measuring stations in the river channel and the delta habitat area;
  - Replacement of the five 36-inch culverts with two 78-inch culverts at the “5 Culverts” crossing northeast of Independence;
  - Removal of three rock dams between the 5 Culverts crossing and the Mazourka Canyon Road crossing;
  - At the Pump Station (approximately four river miles south of the Keeler Bridge): installation of a temporary earthen cofferdam approximately 100 feet long and bypass to divert flows around the construction site; construction of a riprap-faced diversion structure with spillway within a 100-foot-wide corridor across the active river channel (approximately 200 feet wide and five feet deep, located on the west side of the floodplain) to capture a portion of the flow for return to the Aqueduct and/or diversion to the Owens Lake dust control project; installation of buried sheet pile and a minor berm across the floodplain east of the spillway abutment; excavation of a sedimentation basin approximately 200 feet upstream of the diversion structure; and hand installation of temporary stream gages (steel weirs supported by temporary fill material, such as sandbags) below the Delta area installed to measure water flowing through the Delta;
  - Installation of up to fifteen temporary flow measuring stations constructed of steel weirs supported by fill materials (e.g., sandbags). The temporary flow measuring stations would be installed by hand labor and would be removed after several years when the 40-cfs baseflow has been verified and initial water losses have been stabilized. Exact locations would be determined by individual site identification based on good site access and constrained channel width; at least one of these temporary flow measuring stations would be converted to a permanent station based on results of monitoring of the temporary stations; and
  - Construction of various spillgates, culverts, berms, ditches or other water-control features at the Blackrock waterfowl habitat area. Seven spillgates or culverts constructed of wood and steel with concrete footings and/or walls would be constructed or replaced, requiring minor earth or structural work; impacts at each site would be less than 3,000 square feet. In addition, approximately 3.3 miles of berms and 1.7 miles of ditches would be constructed or repaired using small earthmoving equipment and on-site material. Most existing berms are 15-30 feet wide; new berms would be 1-3 feet high and 15 feet wide, sufficient for vehicle use. New ditches would be approximately three feet deep and five feet wide, and would include an adjacent 15-foot-wide maintenance road. These features would disturb approximately 31 acres, but it should be noted that much of the area is not currently subject to Corps jurisdiction because it is outside of the ordinary high water mark of the Owens River proper, and/or would not meet the three criteria (hydrophytic vegetation, hydric soils and hydrology) necessary for a Federal determination the area is in fact a wetland.

### **Additional Project Information**

The project involves restoration efforts on the lower Owens River from the delta at the north end of Owens Lake to approximately 12 miles due north of the town of Independence, Inyo County, including rewatering approximately 62 miles of the river to enhance fisheries and riparian habitats.

Other components include providing water to the Owens River Delta to maintain and enhance wetland and aquatic habitats in that area, managing a 1,500-acre off-river area (Blackrock waterfowl management area) to benefit wetlands and waterfowl habitat (500 acres of which would be in active wetted habitat management at any one time), and maintaining several off-river lakes and ponds. The project would require construction of a pump station near the delta to recover some of the water released to the river (water to be returned to the aqueduct for transport to Los Angeles or out to Owens Lake for dust control purposes) and substantial modifications to the inlet at the northern terminus of the project.

This project is the result of agreements reached between the County of Inyo and the City of Los Angeles (LADWP) following litigation dating to 1972. Several EIRs were prepared to examine issues related to stream diversion and groundwater pumping. The County and LADWP conducted discussions through the 1980s regarding long-term cooperative water management and issued a draft agreement for public comment in 1989. This Agreement was assessed in a 1991 EIR, and the LORP was identified as mitigation for impacts related to groundwater pumping by LADWP from 1970 to 1990 and impacts of projects and water management practices that would occur after 1990 under the Agreement. Concerns raised regarding the 1991 EIR were resolved in a 1997 Memorandum of Understanding (MOU) ending litigation between the County and LADWP. The EPA's FY1999 budget included a special appropriation to assist Inyo County in carrying out the LORP with additional funding allocated in FY 2000, 2001, and 2002 budgets for both Inyo County and LADWP. Subsequently, they engaged in preparation of an EIS in conjunction with preparation of the EIR. A draft joint EIR/EIS was released in November 2002.

Close coordination between LADWP, County and EPA continued from issuance of the draft EIR/EIS in November 2002 to early May 2004 when LADWP, under a court ordered completion date, informed the Court that LADWP would complete the document (for CEQA compliance only) on its own in order to release the final EIR by June 23, 2004. The final EIR incorporated many of the comments provided by the EPA and County, and reflected the consensus of understanding reached as of May 2004. The Final EIR was released on June 23, 2004. The City of Los Angeles Board of Water and Power Commissioners certified the Final EIR on July 20, 2004.

EPA continued with preparation of the EIS until September 19, 2005 when LADWP and the County entered into a funding agreement wherein LADWP would provide the County with credits toward the County's share of the project in exchange for the County foregoing the EPA grants. Accordingly, EPA funding is no longer being used for implementation of the project.

A supplemental environmental impact report is in preparation to investigate the LORP project's potential effect on the "brine pool transition area" south of the LORP project area proper. The brine pool transition area is not clearly delineated, but is generally considered to be southward of the vegetated wetlands of the Owens River Delta and is a portion of the brine pool within the Owens Lake. This analysis will more clearly assess the existing environmental conditions present in the transition area and the anticipated changes that reasonably may occur, including analysis of potential impacts on wildlife, particularly birds. This analysis is not anticipated to modify actual project design but may affect operation of the pump back station or baseflow considerations.

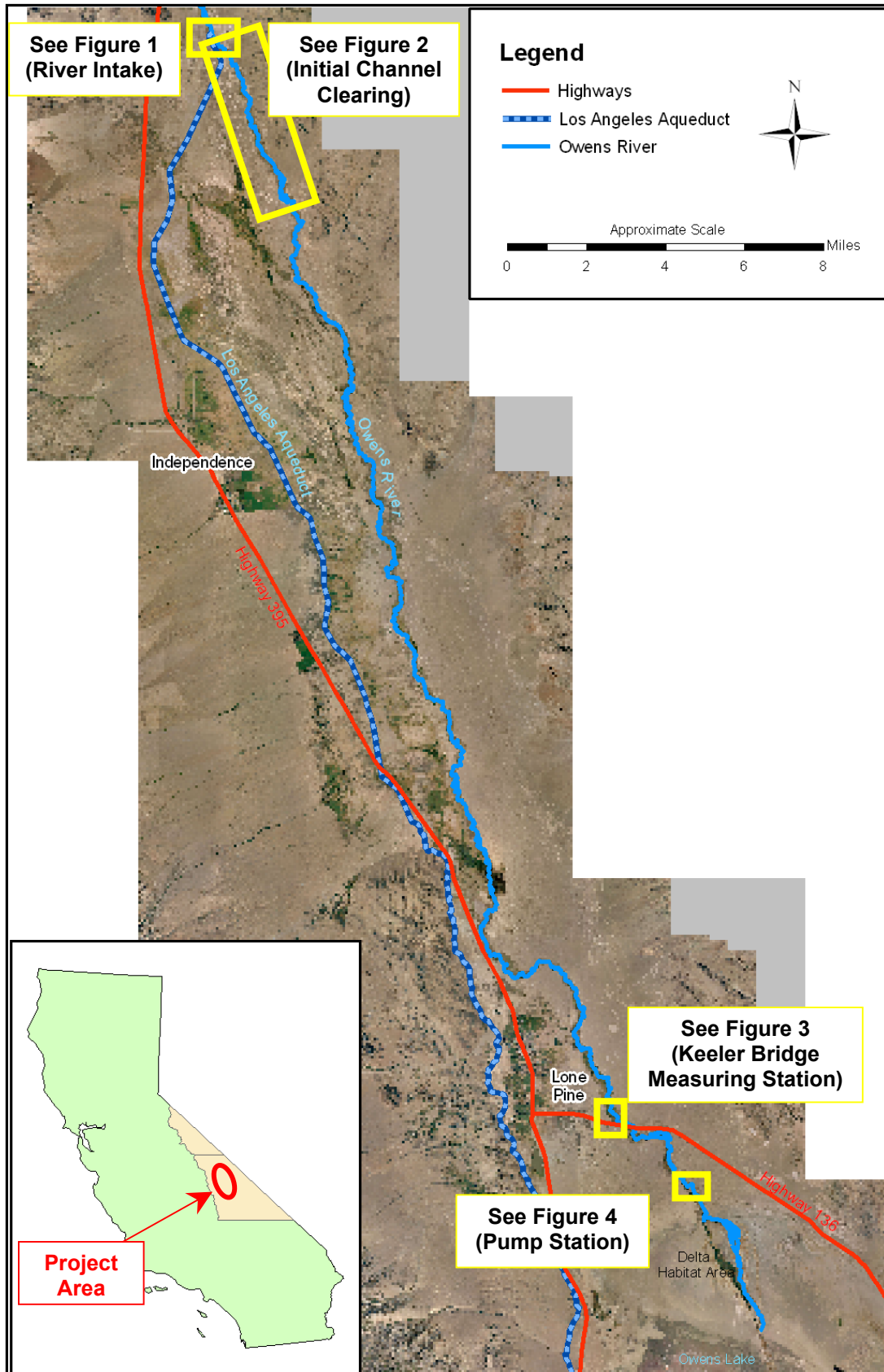


### **Proposed Special Conditions**

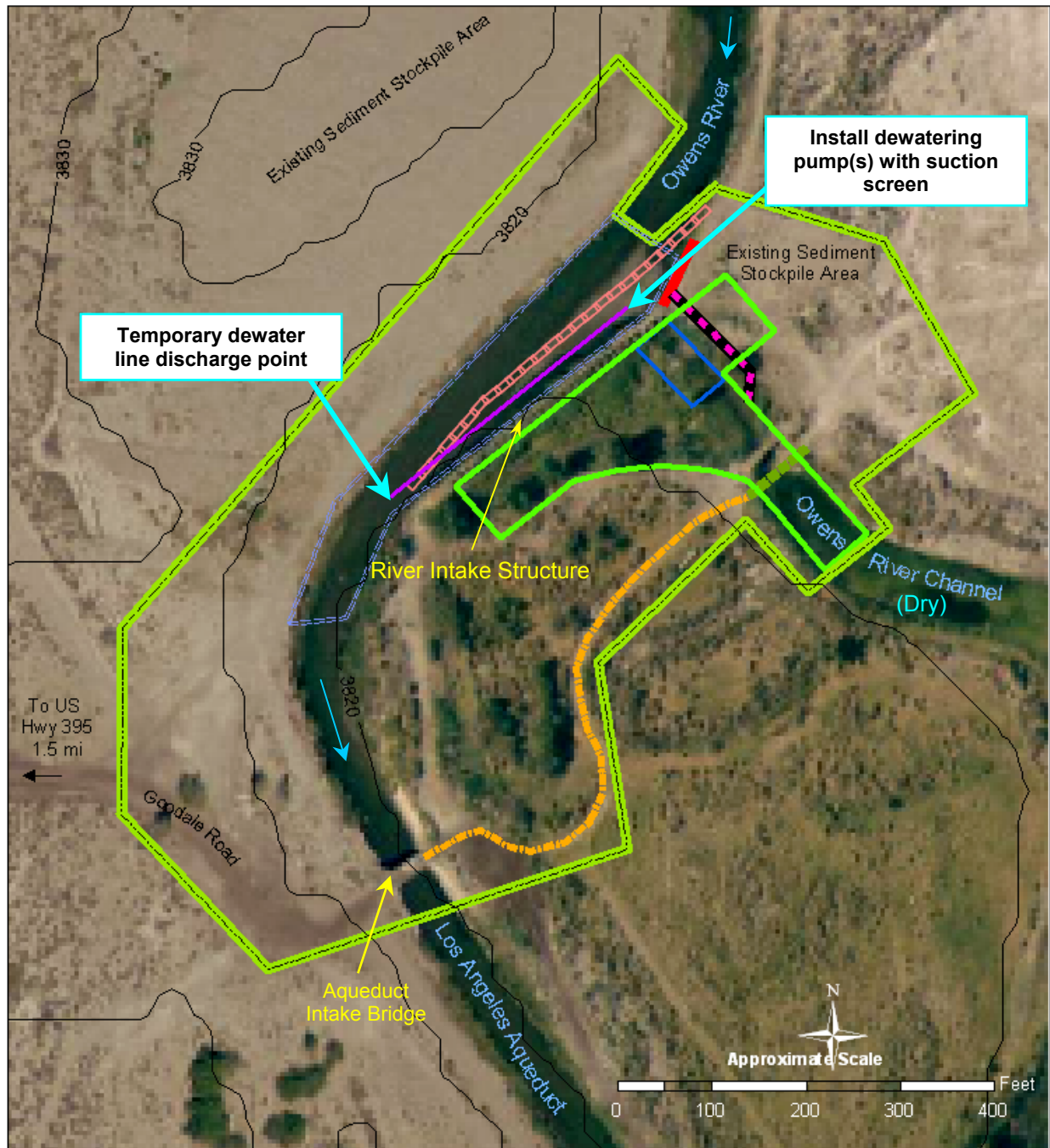
Special conditions have not been formally proposed for this project by the applicant. However, it is noted that many detailed discussions between various interested parties have specifically addressed identified issues and the project does address many of the stated concerns. It is also noted that additional special conditions will likely be necessary.

For additional information please call Bruce A. Henderson of my staff at (805) 585-2145. This public notice is issued by the Chief, Regulatory Branch.

# Index Map



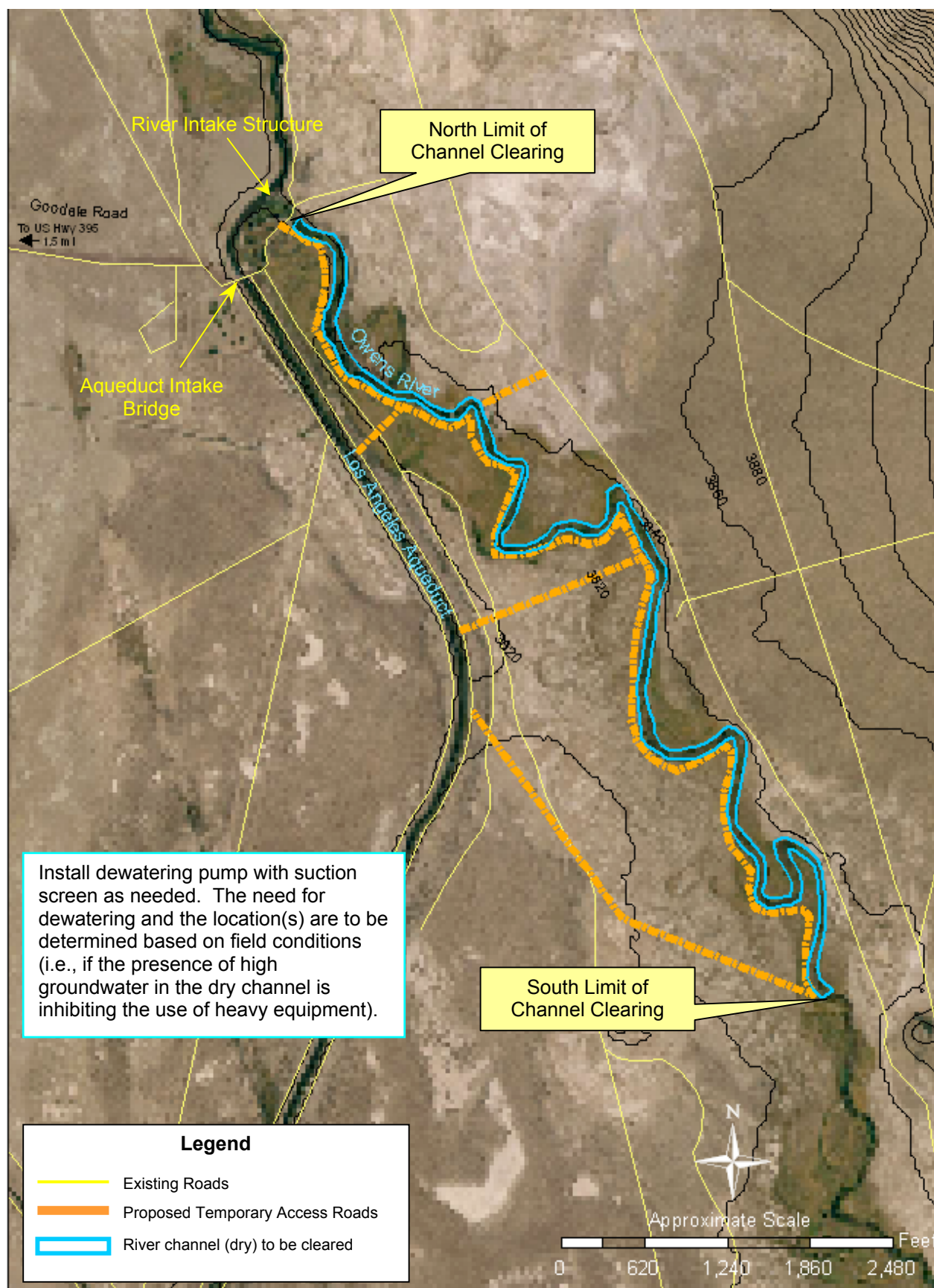
**Figure 1 – River Intake**



**Legend**

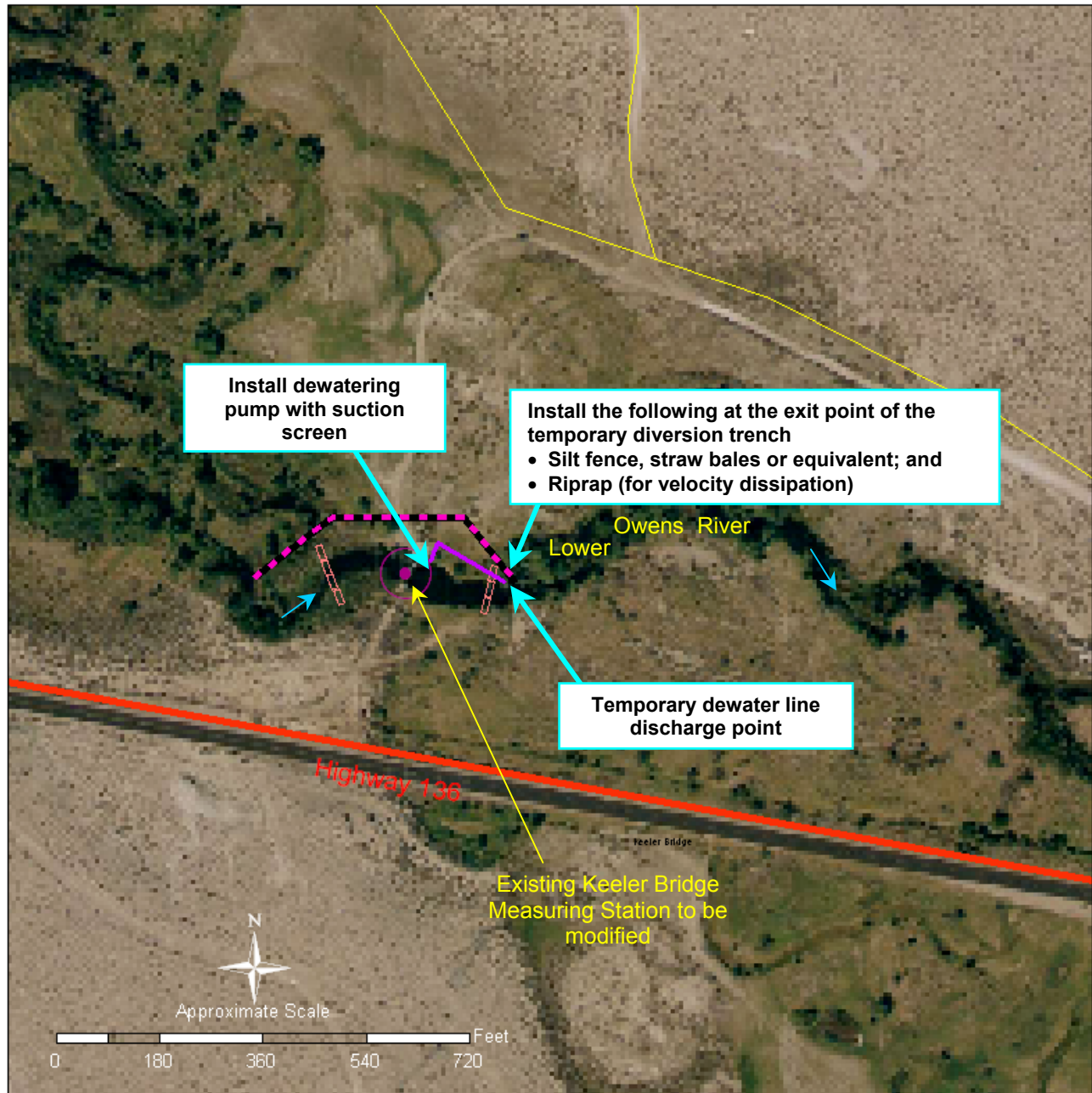
- Dewater Discharge Line
- Site Perimeter
- Temporary Cofferd Dam
- Dredge Forebay
- Tailbay
- Extend Spillway
- Retaining Wall
- Contingency Pipeline
- New Bridge
- Improve Road

**Figure 2 – Initial Channel Clearing**











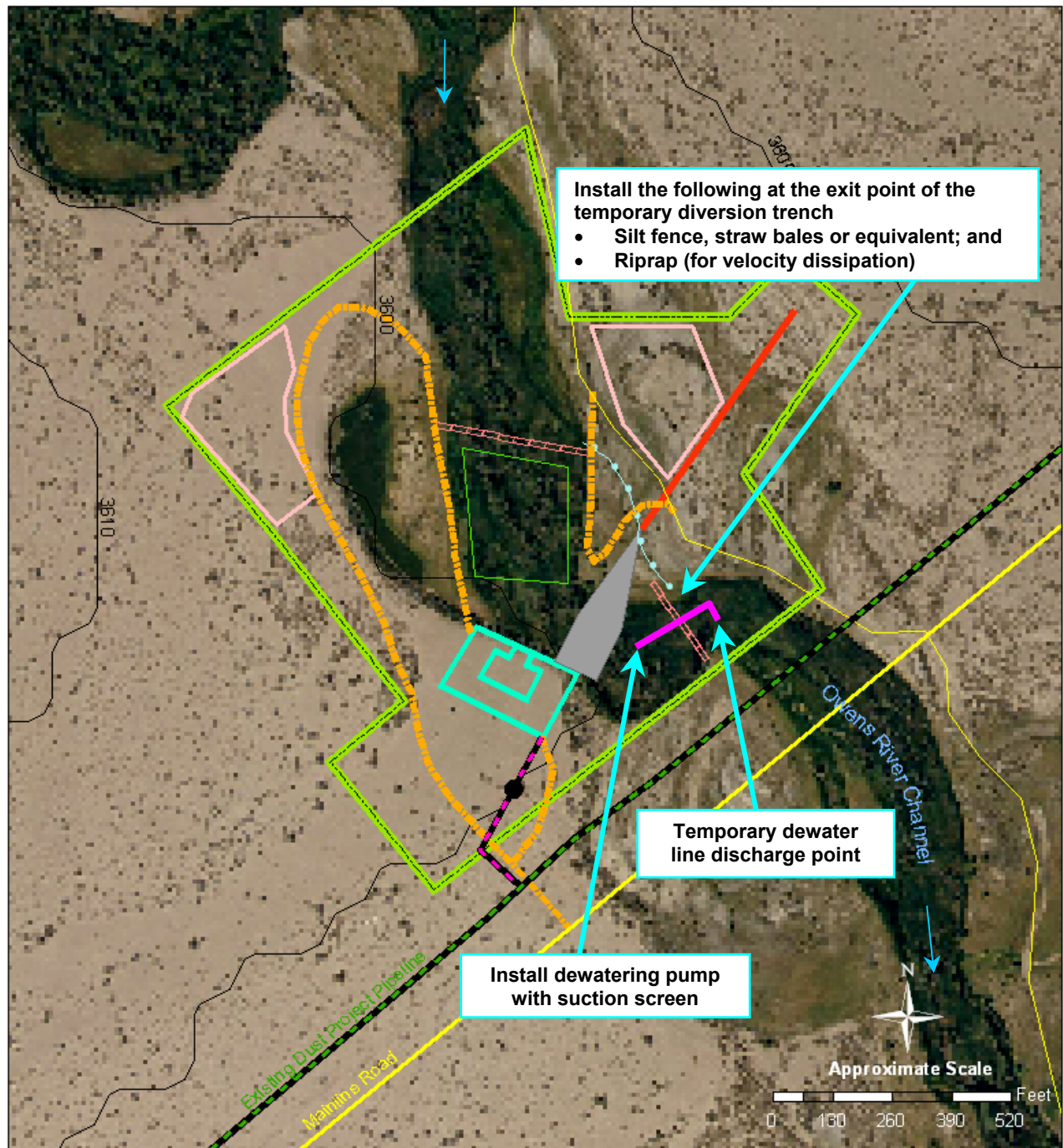
**Figure 3 – Keeler Bridge Measuring Station**















**Legend**

-  Flow Measuring Station
-  Dewater Discharge Line
-  Diversion Trench
-  Temporary Cofferd Dam
-  Existing Roads
-  Highways

# Figure 4 – Pump Station



## Legend

	Diversion Structure		Temporary Cofferd Dam
	Pump Station		Erosion Control Structure
	Sediment Basin		Existing Road
	Sediment Stockpile		Pipe
	Site Perimeter		Service Road
			Temporary Bypass
			Dewater Discharge Line